

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA

Plaintiff,

v.

HENRI WETSELAAR, M.D.,

Defendant.

Case No. 2:11-CR-00347-KJD-CWH

ORDER

Presently before the Court for consideration is Defendant, Dr. Henri Wetselaar's Motion for Reconsideration Regarding Court's Granting of Government's Motion in Limine (#305) to which the Government responded in opposition (321).

This Motion is an objection to the Government's Motion in Limine (#294) which was filed as a response to Defendant's Notification to the Court of his intent to present evidence regarding patients at trial (#176). Specifically, Defendant notified the Court of his intention to present evidence pertaining to:

- 1 1. Patients who violated the written agreement that provided (sic) by Dr. Weselaar and
2 that they signed regarding the terms and conditions of their treatment (non-
3 compliant);
- 4 2. Patients treated by Dr. Wetselaar who did not receive controlled substances prior to
5 the execution of the search warrant in August 2010;
- 6 3. Patients who were prescribed controlled substances by other doctors prior to the time
7 the patients were seen by Dr. Wetselaar;
- 8 4. Patients treated by Dr. Wetselaar who were later seen and accepted by other
9 physicians who prescribed controlled substances to those same patients; and
- 10 5. Evidence that pharmacies other than Lambs (sic) filled Dr. Wetselaar's prescriptions
11 during the time period alleged in the Criminal Indictment.

12 The government conceded that the evidence described in numbers 1, 2, and 5 listed above is
13 potentially relevant and possibly admissible at trial. However, the Government opposes the
14 admission of evidence listed in numbers 3, and 4 above on the basis of irrelevance.

15 Defendant's Motion cites five sources of authority, however, this authority does not relieve
16 the Defendant of the obligation to independently evaluate patients. Additionally, Defendant is not
17 charged under the statutes listed, NRS 453.1545 and NRS 639.23507(1), the purpose of which is to
18 prevent a physician from over-prescribing medication, not to allow a physician to rely on the fact that
19 someone else has found it appropriate. Introduction of this evidence is likely to confuse the jury.

20 The Government does not object to the introduction of evidence pertaining to the State of
21 Nevada's Prescription Monitoring Program (PMP) which is available for a physician to access if:

- 22 1) they suspect a patient has a drug addiction problem; 2) if the patient is new to the
23 practitioner and is requesting a controlled substance prescription and 3) if an existing
24 patient is requesting a controlled substance and the practitioner has not checked with the
25 State's PMP within the last 12 months for this patient.

25 Evidence based on this statute is separate and apart from the request to introduce information
26 regarding patients seeing other doctors.

1 Accordingly, IT IS THEREFORE ORDERED that Defendant's Motion for Reconsideration
2 Regarding Court's Granting of Government's Motion in Limine (#305) is **denied, in part;**

3 IT IS FURTHER ORDERED that Defendant is permitted to introduce evidence pertaining to
4 the State of Nevada's Prescription Monitoring Program, subject to the foregoing limitations.
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8 DATED this 9th day of September 2016
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11 Kent J. Dawson
12 United States District Judge
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